

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

THOMAS A. KATZ, and
UNIVERSAL GROUP, INC.

NO. **10CR10120-WGY**
16 U.S.C. §§ 3372(a)(1), 3373(d)(2) D
16 U.S.C. §§ 3372(d), 3373(d)(5)(A)
U.S. DISTRICT COURT MASS.
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INFORMATION

I. INTRODUCTORY ALLEGATIONS

The following statements were true at all times pertinent to this Information:

1. UNIVERSAL GROUP, INC. ("UNIVERSAL GROUP") is a business organization incorporated and doing business in the Commonwealth of Massachusetts.
2. THOMAS A. KATZ is the President and sole shareholder of UNIVERSAL GROUP and a resident of Burlington, Massachusetts.
3. Between at least January 2000 and continuing through at least July 2005, KATZ, on behalf of UNIVERSAL GROUP, purchased from a seafood import company (Company A) frozen fish fillets for the purpose of reselling the fillets to restaurants and institutional customers. The fish fillets were labeled or otherwise described variously as grouper, "basa catfish," or ponga. Basa is the approved market name for *Pangasius bocourti*, a species of fish in the family of catfishes.
4. Before November 2001, Company A shipped the fillets to UNIVERSAL GROUP without listing a country of origin. From November 2001, through December 2002, Company A

listed the country of origin for the fillets as Vietnam. During this time the fillets were labeled or otherwise described as either grouper or basa.

5. In June 2002, a petition was filed with the U.S. Department of Commerce alleging that *Pangasius bocourti*, and *Pangasius hypophthalmus*, among other species of catfish aquacultured in Vietnam, typically in the Mekong River, was being imported from Vietnam at prices below cost. The petition sought the imposition of anti-dumping duties on imports from Vietnam of frozen fillets of certain species of the genus *Pangasius*.

6. In August 2003 an anti-dumping order was issued, imposing a duty of 63.88% on imports from Vietnam of frozen fillets of certain species within the genus *Pangasius*, including the species *bocourti* and *hypophthalmus*.

7. In 2003 KATZ, on behalf of UNIVERSAL GROUP, began purchasing from Company A frozen fish fillets identified by Company A as grouper imported from the People's Republic of China.

8. In the spring of 2004, KATZ, on behalf of UNIVERSAL GROUP, began supplying frozen fillets of fish he called grouper, country of origin China, that he purchased from Company A, to a national restaurant chain. In May of 2004, KATZ was asked by the restaurant chain about the pink color of some of the frozen fillets. KATZ made inquiry in turn of Company A, which advised him that it was related to the way the fish were raised, referring at one point to the river in which they grew. Based on the information provided by Company A, KATZ advised the restaurant chain that, among other things, the grouper was pond raised. Small quantities of grouper, a saltwater fish, is raised in controlled conditions in saltwater in the Phu Quy area of Vietnam. It is not ordinarily grown in ponds.

9. Between June and August 2004, UNIVERSAL GROUP ordered at least four shipments of frozen fillets of grouper from Company A but received instead at least four shipments (at least 92,576 pounds for \$318,704.00) of frozen fillets invoiced as "China basa." Rather than returning the "basa" to Company A, UNIVERSAL GROUP had a cold storage facility re-label the four containers of product as grouper and sold it to the restaurant chain it was supplying.

10. Between approximately February 2004, and July of 2005, KATZ, on behalf of UNIVERSAL GROUP, purchased approximately 2.5 million pounds, or over \$5.5 million worth of fish labeled as grouper or, beginning in approximately August 2004, as "ponga" but with the brand name of Falcon Baie Grouper or Paradise Grouper prominently on the label, from Company A. The product was labeled as originating from China. UNIVERSAL GROUP, through KATZ, paid approximately \$2.30 per pound for the fish. At this time the wholesale market price for frozen fillets of grouper was approximately \$ 3.00 per pound. No duties were paid by Company A on the product.

11. Samples taken from a shipment of "ponga" imported by Company A in December 2004 and sold to UNIVERSAL GROUP were subject to DNA testing that resulted in the identification of the samples as *Pangasius hypophthalmus*. *Pangasius hypophthalmus* is a less expensive fish than *Pangasius bocourti* aka basa. *Pangasius hypophthalmus* goes by the approved market name of swai, or striped pangasius and is also referred to as Vietnamese catfish.

The U.S. Attorney charges:

COUNT ONE

On or about and between approximately February 2004, and July 2005, in Middlesex County, Massachusetts, the District of Massachusetts and elsewhere,

THOMAS A. KATZ

the defendant herein, did knowingly receive, acquire and purchase from another company fish, specifically *Pangasius hypophthalmus*, commonly known as swai or striped pangasius or Vietnamese catfish, with a total value of over \$5.5 million, when defendant should have known in the exercise of due care that the fish had been taken, possessed, transported and sold in violation of and in a manner unlawful under United States law, specifically Title 16, United States Code, Section 3372(d), Title 21, United States Code, Section 331(a), and Title 18, United States Code, Section 541, in that the fish was falsely labeled and misbranded as to species and country of origin to avoid detection by authorities as being a fish subject to tariff duties.

All in violation of Title 16, United States Code, Sections 3372(a)(1), 3373(d)(2).

COUNT TWO

On or about and between August 12, 2004, and December 31, 2004, in Middlesex County, Massachusetts, the District of Massachusetts and elsewhere,

UNIVERSAL GROUP, INC.

the defendant herein, did knowingly make and submit a false label for and a false identification of fish, that is, at least 92,576 pounds of frozen fillets of the genus *Pangasius* in that the defendant had boxes of said frozen fillets re-labeled and identified as frozen fillets of grouper when in truth and in fact, as the defendant then knew, said fish was not grouper but a species

within the genus *Pangasius*, said fish having been imported and received from a foreign country and intended to be transported and sold in interstate commerce, and having a market value greater than \$350.

All in violation of Title 16, United States Code, Sections 3372(d), and 3373(d)(3)(A) and Title 18, United States Code, Section 2.